

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-6276

MELVIN CHICHESTER,

Plaintiff - Appellant,

versus

H. R. POWELL, Warden of the Deerfield Correctional Center; S. D. MAYES, Chief of Security, Deerfield Correctional Center; CAPTAIN BRACEY, Deerfield Correctional Center; CAPTAIN GIBBS, Deerfield Correctional Center; LIEUTENANT GRAVES, Deerfield Correctional Center; LIEUTENANT SPEIGHT, Deerfield Correctional Center; SERGEANT NICKENS, Deerfield Correctional Center; JOHN DOE, I, Correctional Officer, Deerfield Correctional Center; JOHN DOE, II, Correctional Officer, Deerfield Correctional Center,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (CA-95-1055-2)

Submitted: April 15, 1996

Decided: May 3, 1996

Before ERVIN and MOTZ, Circuit Judges, and CHAPMAN, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Melvin Chichester, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Melvin Chichester filed a complaint under 42 U.S.C. § 1983 (1988), and sought leave to proceed in forma pauperis. Because assessing a partial filing fee in accordance with Evans v. Croom, 650 F.2d 521 (4th Cir. 1981), cert. denied, 454 U.S. 1153 (1982), and E.D. Va. Loc. R. 28(C)(4), would exceed the statutory filing fee, the district court assessed a partial filing fee in an amount that was ten percent less than the statutory filing fee. Chichester did not pay the assessed fee but instead filed this appeal. This appeal is properly before us. Roberts v. United States Dist. Court, 339 U.S. 844, 845 (1950). Finding no abuse of discretion, we deny leave to proceed in forma pauperis and dismiss the appeal on the reasoning of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED